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April 28, 1999

BY HAND

Ms. Magalie Roman Salas
FCC Secretary
The Portals
455 Twelfth Street, S.W.
Room TW-A325
Washington D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Ex Parte Presentation in CC Docket No. 96-115

Dear Ms. Salas:

In accordance with Section 1.1206 of the Commission's Rules, 47 C.F.R. § 1.1206, notice is hereby given of an *ex parte* presentation regarding the above-captioned proceeding. On April 27, 1999, Pat Gray, Esti Witty, and Lori Alsterberg, of MobileComm, and myself met with Dan Connors, Legal Advisor to Commissioner Ness, to discuss several issues pending before the Commission in connection with the above-captioned proceeding, including how the CPNI rules will affect paging providers. The issues discussed during the meeting are set forth in the attached hand-out, a copy of which was left with Mr. Connors.

In accordance with the Commission's rules, two copies of this letter and of the written hand-out are being provided for inclusion in the relevant docket file. If you have any questions or need any additional information, please call me at the number listed above.

Respectfully submitted,

Gregory Vogt

Gregory Vogt
Counsel for MobileComm

cc: Mr. Dan Connors
Enclosure

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 **MobileComm®**
CPNI Ex Parte

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MobileComm believes forbearance from the CPNI rules is justified for CMRS carriers for the following reasons:

- Current rules are having an adverse effect on competition, running contrary to the original intent of the legislation.
- Execution of the rules as they exist today are creating customer confusion.

CPNI Is Yielding an Adverse Effect on Competition

- Requiring customer approval before use of CPNI is stifling competitive efforts to sell advanced services and equipment to existing customers.
 - Customer Impact: The nature of the customer-carrier relationship in the paging industry is to purchase a bundled service--equipment, airtime, and value-added services.
 - Carrier Impact: advanced services, such as alphanumeric and advanced messaging services to basic numeric paging customers, is substantially hindered because we cannot proactively talk to those customers that would be most interested in these new products. This is the area where paging is expecting the most significant growth opportunities.

CPNI Is Yielding an Adverse Effect on Competition

- “Enhanced services” are viewed by customers as a critical element of their paging service.
 - As the Internet penetration grows and the use of e-mail skyrockets, information delivered through the pager will be a given feature of the service and a core competitive advantage versus other forms of communication.
 - Voicemail is just another means of *retrieving* a message sent to the paging subscriber. A customer cannot have paging service with one provider and voicemail for the paged message with another. CPNI restrictions regarding voicemail will not further the competitive arena in regard to the service.
 - The Commission should take a practical view in implementing Section 222 and permit use of CMRS enhanced services without separate customer approval.

CPNI Is Yielding an Adverse Effect on Competition

- Customers have historically relied on the carrier to provide information on new products and services.
 - Adding additional features is critical to customer retention, especially for paging carriers, where “lack of perceived value” is the primary reason for customer churn.
 - 34% of recently cancelled accounts indicated that they received little or no information about new products and services.
 - More than half of our customers responding to a recent study stated that they would like to have more information regarding our products and services sent to them via e-mail.

CPNI Is Yielding an Adverse Effect on Competition

- CPNI restrictions on customer win-back further limit our ability to compete.
 - Our win-back efforts have resulted in “saving” over a third of our cancelled accounts, simply by contacting customers and reiterating the benefits of our paging service, further indicating that customers welcome information from their carrier that demonstrates the value of the paging relationship.

The CPNI rules are creating customer confusion.

- MobileComm has spent considerable time and effort during the last year implementing the Commission's CPNI rules, only to discover that there is a great deal of customer confusion about the rules, regardless of clarity of the company's oral or written disclosures.
 - The customer is only willing to give MobileComm an extremely limited amount of time to discuss marketing and CPNI.
 - Despite clear statements to the contrary, customers routinely think that MobileComm is trying to get permission to sell their names to third parties, especially large accounts.
 - Several local government agencies have refused to sign the CPNI approval form.
 - Customers have demonstrated that, as a result of their confusion as to the purpose of the CPNI notification and approval request, they are more apt to deny approval, thereby limiting the ability of the carrier to serve their needs in the future